

Board of Selectmen Meeting
Tuesday, December 15, 2015

A meeting of the Rockport Board of Selectmen was held at 6pm on Tuesday, December 15, 2015 in Conference Room A in Town Hall with three selectpersons and the Asst. Town Administrator; Selectpersons Lucas and Murphy were late for the meeting; the Town Administrator was not in attendance.

6:16 Meeting Called to Order

Selectperson Sheedy moved that the Board of Selectmen enter into Executive Session for exemption #3 to discuss strategy with respect to litigation (Sheehan vs Town of Rockport) and approval of Executive Session Minutes and reconvene in open session, Selectperson Wilkinson seconded, Roll Call Vote: Chairperson Battistelli – aye, Selectperson Sheedy – aye, Selectperson Wilkinson – aye, all in favor.

Motion to Enter Executive Session to discuss strategy with respect to litigation
Motion Approved

Chairperson Battistelli: “We are entering executive session because, by not doing so, it would be detrimental to the Town’s litigating position. The Board will reconvene in Open Session.”

Selectperson Lucas left the meeting at 7pm, just before open session.

7:00 Pledge of Allegiance and Moment of Silence

Interview of Ron Gravel for the Insurance Committee: Selectperson Wilkinson nominated Ron Gravel as a member of the Insurance Committee for a two and one half year term to expire on June 30, 2018, Selectperson Sheedy seconded, no vote taken. R. Gravel said his entire career was in insurance, he has an MBA. He worked for The Hartford Insurance Company, then moved to Boston and worked for Lexington Insurance Co. We are still seeking members for the insurance committee; R. Gravel is member number one; recruitment efforts will continue.

Interview of Ron Gravel for Insurance Committee

Approval of Minutes of December 1, 2015: no vote taken – moved to next meeting.

Approval of 12/1/15 Minutes, postponed to next meeting

Certificate of Appreciation to Mary Devaney & Iris: Anti-Graffiti Task Force, presented by the Board.

Certificates of Appreciation for Anti-Graffiti Task Force

Certificate of Appreciation to Jill Solomon: Anti-Graffiti Task Force, presented by the Board.

Selectmen Updates and Liaison Reports:

- A reminder that the annual Holiday Party is scheduled for Tuesday, 12/22/15 at the Community House, from 3-5pm. This is an annual celebration for staff, volunteers, and residents that may be considering volunteering/sitting on a committee.
- Selectperson Sheedy and Chairperson Battistelli serve on the CIPC; they are working and meeting weekly on capital needs. Free cash information isn’t available yet. The CIPC will present their recommendations to the Board of Selectmen after the New Year.

Selectmen Updates and Liaison Reports

- Chairperson Battistelli said she attended Sen. Tarr’s toy drive, it was well attended, and the elementary chorus music was great.

Public Comment
Period

Public Comment Period: T. Arsenian, 95 Granite St., said he would like to speak when the entertainment license revision and the Millbrook Meadow are on the agenda. He inquired if the Board of Selectmen can get an update on the Harbor Light 5 Granite Street project.

Frederick Tarr, 154 Main Street, said Ken Lane is taking great care of Waring Field. Millbrook Meadow is an interest to him and educational for kids as well.

7:40 Action List

Action List:

Open Meeting Law
Complaint –
motion to deny any
violation was
committed.
Motion Approved

Open Meeting Law Complaint – Acknowledge Receipt of December 9, 2015 Open Meeting Law Complaint from Steve Sheehan concerning the Board of Selectmen’s Executive Session Meeting Minutes; Review and Act on Complaint: Selectperson Sheedy moved that the Board of Selectmen vote to deny that it committed any violation of the Open Meeting Law as alleged in Mr. Steve Sheehan’s December 9, 2015 Open Meeting Law complaint and, following the Board’s review and consideration of the draft response prepared by Town Counsel, that the Board approve the response to Mr. Sheehan’s December 9, 2015 Open Meeting Law complaint, as drafted, and move that Town Counsel is authorized and directed to file said response with Mr. Sheehan and the Attorney General’s Division of Open Government in accordance with G.L. Ch. 30A., Selectperson Murphy seconded, Vote: 4-0. The Asst. Town Administrator said we believed we were in compliance; he said the office put in over 130 hours of time reviewing the minutes, redacting and copying them.

Bond Anticipation
Note
Motion Approved

Bond Anticipation Note: Selectperson Wilkinson moved that the Board of Selectmen approve the sale of the \$3,940,000 1.50 percent General Obligation Bond Anticipation Notes (the “Note”) of the Town dated December 18, 2015, and payable August 5, 2016 to Jefferies, LLC at a price of par, plus a premium of \$25,098.00.

Further, to approve the sale of a \$40,000 0.80 percent General Obligation State House Note of the Town dated December 18, 2015 and payable June 30, 2016 (the “State House Note” and together with the Note, the “Notes”) to Century Bank and Trust Company at par.

Further, that in connection with the marketing and sale of the Note, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated December 3, 2015, as amended, and a final Official Statement dated December 10, 2015, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further, that the Town Treasurer and the Board of Selectmen be, and hereby area, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rules 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Note, as applicable, for the benefit of the holders of the Note from time to time.

Further, that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures in such form as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Notes.

Further, that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

Seconded by Selectperson Sheedy, Vote: 4-0.

Capital Projects Useful Life Designations: Selectperson Sheedy moved that the Board of Selectmen vote that the maximum useful life of the Fire Department pumper truck be a financed with the proceeds of the \$160,000 borrowing authorized by a vote of the Town passed April 4, 2015 (Article 6) is hereby determined pursuant to G.L. c.44, §7(9) to be 25 years.

Capital Projects
Useful Life
Designations
Motion
Approved

Further, that the maximum useful lives of the departmental equipment known as school intercom and school clocks to be financed with the proceeds of the \$100,000 borrowing authorized by a vote of the Town passed April 5, 2014 (Article 6, Motion Number 2) are hereby determined pursuant to G.L. c.44, §7(9) to be 20 years.

seconded by Selectperson Wilkinson, Vote: 4-0.

122 Long Beach Renovations: Chairperson Battistelli recused herself and left the room, Vice Chair Selectperson Murphy took over for the motion and vote: Selectperson Wilkinson moved that the Board of Selectmen approve the renovations to 122 Long Beach as requested by Marion C. Deluca and as depicted on a revised plan entitled “Deluca Residence, 122 Long Beach, Rockport, MA” by Breuker Design, LLC dated November 13, 2015 and as reviewed by the Building Inspector on December 11, 2015, seconded by Selectperson Sheedy, Vote: 4-0. The Asst. Town Administrator said since the last meeting he has spoken to Breuker Design; the lot lines are definitive. Breuker Design has revised the plan, the plan has been shared with the Bldg. Inspector; any potential encroachments have been removed from the plan. As a gesture to the neighbor, M. Deluca felt it was important to maintain the historic use of the property.

122 Long Beach
Renovations
Motion
Approved

36 Long Beach Notice of Lease: Selectperson Sheedy moved that the Board of Selectmen approve and sign a Notice of Lease for 36 Long Beach with Sara and Dave Daniels, seconded by Selectperson Murphy, Vote: 4-0.

36 Long Beach
Notice of Lease
Motion
Approved

Pigeon Cove Lease: Selectperson Murphy moved that the Board of Selectmen approve and sign a Pigeon Cove Land Lease with James VanDerpool, to expire on June 30, 2017, seconded by Selectperson Sheedy, Vote: 4-0.

Pigeon Cove
Lease
Motion
Approved

Entertainment License Regulation Revision: Selectperson Wilkinson moved that the Board of Selectmen vote to revise section 3 A of the 2002 Entertainment License Regulations by eliminating “no later than 10:00pm” and inserting “between 9 p.m. and 11 p.m. depending on venue and amplification levels”. The Board of Selectmen will review each application for neighborhood type and density, as well as whether the music will be amplified or acoustic to determine the appropriate time the music will be allowed to continue until for each Entertainment License, seconded by Selectperson Sheedy, Vote: 3-1, Selectperson Murphy is not in favor of voting on this without all five board members being in attendance; he voted against this motion. Chairperson Battistelli said she is in favor of this revision; she would like some flexibility considering each license on an individual basis. Kathy Milbury, from My Place by the Sea, said alcohol can be served until 10:30pm, and glasses must be off the

Entertainment
License
Regulation
Revision

Motion
Approved
Vote: 3-1.

table by 11pm. Selectperson Wilkinson read the regulations and said the regulations state that alcohol can be served until 11pm and everything must be off the table by midnight. Eric Leveille, Bearskin Neck Motor Lodge, 64 Bearskin Neck, said they have asked the Board to address some concerns, during the Wednesday evening events this summer noise control was an issue. They have some recommendations: 1) outdoor music should end at 9pm due to the proximity of the buildings, 2) consider opting a maximum permissible sound level (you can get an app. for cell phones, or look into purchasing noise measuring equipment, 3) if you do this on a case by case setting, he questions where in Rockport would outside amplified music be appropriate. E. Leveille has looked to see how Gloucester handles this; it was recommended a more similar community be investigated (Essex, Manchester, etc.) to compare to Rockport. Chairperson Battistelli said she has spoken to the Town Administrator about this change, and this is just the beginning of the discussion. Charlie Legenre, My Place by the Sea, said the change is not intended to be harmful to any residents or visitors to the town – this change is a good thing. People can stay in this town and they don't have to take their business out of town. Chairperson Wilkinson said Rockport is an odd and special place; we have residences 3' from businesses. Selectperson Murphy said this is a downtown area. Jim Ugoni, 33 Main St., said the board should take their time to make this decision. Living downtown is a challenge for him, he is challenged with the noise; this is a delicate balance. T. Arsenian, 95 Granite Street, said the town doesn't have a noise ordinance, the character of the town has changed and not for the better. It's the residents that are paying their taxes, outside music does affect people; noise carries. He said the Police Chief should be here to say how he deals with noise complaints.

Declaration of
Town Property as
Surplus
Motion Approved

Declaration of Town Property as Surplus: Selectperson Murphy moved that the Selectmen declare the 1999 Ford F350 1-ton VIN #1FDWF37F6XEE72734, the 2003 Chevy Impala VIN #2G1WF55K439206196, and the 2000 Ford F250 VIN #1FTNF21L3YED86520 as surplus Town property, Selectperson Sheedy seconded, Vote: 4-0.

Waring Field and
Cranberry Marsh
Lease
Amendments
Motion Approved

Waring Field and Cranberry Marsh Lease Amendments: Selectperson Sheedy moved that the Board of Selectmen approve and sign lease agreements with Kenneth Lane of 38 South Street in Rockport for the property known as Waring Field, identified on Assessor's Map 27, Lot 30 and Cranberry Marsh, identified on Assessor's Map 27, Lots 25 and 26 for a three year term from December 15, 2015 to December 15, 2018 for the annual rental amount of \$350.00, seconded by Selectperson Murphy, Vote: 4-0.

Millbrook
Meadow CPC
Letter
Motion Approved

Millbrook Meadow CPC Letter: Selectperson Wilkinson moved that the Board of Selectmen sign a letter to the Community Preservation Committee in support for the Millbrook Meadow Pond dredging project, Selectperson Murphy seconded, Vote: 4-0. Chairperson Battistelli said in a perfect world, it would be great if the larger project could be approved. At this point we are supporting the dredging; the project should be done in phases. This will be on the warrant for the Spring Town Meeting, which is a little unusual. S. Coulbourn said we've been working for four years on this, \$320,000 was spent in the design and we're permitting right now, \$160,000 in town funds were voted for by the town's people. When we have more money in subsequent years we can do more. T. Arsenian, 95 Granite, said he is against the project. The CPC funds should be to buy more open space for the town; land in the water shed. He doesn't believe that this should be on the STM agenda. He said the Board of Selectmen should ask the CPC to put price tags on all of the projects so voters can make informed decisions.

Approval of
Expenditures for
Snow & Ice
Removal
Motion Approved

Approval of Expenditures for Snow & Ice Removal: Selectperson Wilkinson moved that the Board of Selectmen approve expenditures for snow and ice removal in excess of appropriation under MGL Chapter 44, Section 31D and authorize the DPW Director to make such expenditures as are necessary and appropriate, seconded by Selectperson Sheedy, Vote: 4-0.

Town Meeting Article Q Attorney General Request: The Asst. Town Administrator said the Attorney General's office contacted Town Counsel and forwarded the letters they had received both in favor of and opposing Article Q. Selectperson Sheedy said the Zoning Board and the Building Inspector had concerns regarding the language versus what the statute allows and what case law would allow. There is a concern to make sure that if this language is approved it wouldn't lead to a law suit or an appeal if it conflicts with statutory regulations or case law. She said we should ask the Attorney General to specifically compare the language in the article with the regulations and case law and ensure that there are no conflicts. She said this is the role of the Attorney General. T. Arsenian said that town counsel reviewed the article before it went on the warrant so presumably it is legal.

Town Meeting
Article Q
Attorney General
Request

8:15 Selectmen Briefing

Selectmen
Briefing:

Rockport Music Display: Tony Beedle, Shalin Liu, was here to discuss the marquee in front of the theatre, the larger one to the right. He said they have over 100 concerts each year, and changing the information in this case costs approximately \$10,000 each year. It was originally designed to be a display case to sell items. They are proposing two large screens, where 2-3 months of concerts are displayed at one time. They just want the list displayed. The price for this change is about \$35,000 but it reduces staff time and they will recoup their money within 3-4 years. It is not clear whether this change needs Board of Selectmen approval; if it does, they will return when their plan is firm.

Rockport Music
Display

8:25 Discussion Items:

Discussion Items:

FY 17 budget message: This is the Board of Selectmen's initial review of their message. The Asst. Town Administrator said it will be too close by the next meeting, so they are looking for general guidance tonight. This is a conservative message given there could be a potential \$700,000 deficit for FY '17.

FY '17 Budget
Message

9:00 Selectperson Murphy moved to adjourn, seconded by Selectperson Wilkinson, Vote: 4-0.

Taxicab License, Jeff Young, Gloucester Taxi, 2006 Dodge Caravan #TA23311
Taxicab License, Jeff Young, Gloucester Taxi, 2007, Chrysler Town & Country #TA23301
Taxicab License, Jeff Young, Gloucester Taxi 2003, Buick, Park Avenue, TA1944
Taxicab License, Jeff Young, Gloucester Taxi 2002, Dodge Caravan, TA21393
Taxicab License, Jeff Young, Gloucester Taxi 2001, Buick LeSabre #TA18602
Taxicab License, Jeff Young, Gloucester Taxi 2003 Buick Park Avenue, TA23307
Taxicab License, Jeff Young, Gloucester Taxi 2000 Buick LeSabre, #TA27149
Taxicab License, Jeff Young, Gloucester Taxi 2003, Dodge Caravan #TA27354
Innholder's License, Seven South Street Inn
Innholder's License, Seafarer Inn
Innholder's License Rockport Inn & Suites, Local Yokel
Innholder's License, Bearskin Neck Motor Lodge
Innholder's License, Cape Hedge Inn, Turks Head LLC
Common Victualler's License Lograsso's Deli
Common Victualler's License, Hula Moon
Common Victualler's License, The Red Skiff
Common Victualler's License, Sandy Bay Yacht Club
Common Victualler's License, Tuck's Retail, Tuck's Candies

Common Victualler's License, Seaside Pizzeria, LLC
Common Victualler's License, Helmut's Strudel
Common Victualler's License, Bearskin Neck Country Store
Lodging House License, The Seaward
Lodging House License, Lamplighter Lodge
Lodging House License, Tregony Bow Guest House
Lodging House License, Eagle House Motel
Ltr to Ruth George, CPC, Millbrook Meadow
Lease Agreement, Waring Field, Kenneth Lane
James VanDerpool, 2 yr lease
Notice of Lease, Map 21, Lot 60H, 36 Old County Road, Sara Daniels
Innholder's License, MHG Rockport, LLC, Emerson Inn by the Sea
Innholder's License, JMMJ Captain's Bounty on the Beach
Certificate of Appreciation, Mary Devaney, Anti-graffiti
Certificate of Appreciation, Iris Devaney, Anti-graffiti
Certificate of Appreciation, Jill Solomon, Anti-graffiti